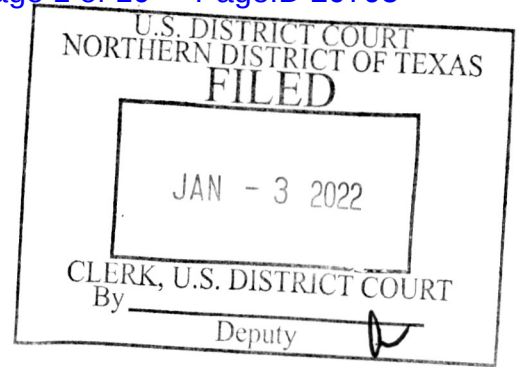


MICHAEL FAULKNER
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

-----X

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO: 3:09-cr-00249-D-2

v.

MICHAEL BLAINE FAULKNER,

Defendant.

-----X

DECLARATION OF MICHAEL BLAINE FAULKNER IN SUPPORT OF
MOTION FOR COMPASSIONATE RELEASE AND/OR REDUCTION OF
SENTENCE PURSUANT TO 18 U.S.C. § 3582(c) (1) (A)

In light of the Court's Memorandum Opinion and Order, statement on page 6, "Concerning the need to protect the public from future crimes, although Faulkner in his motion states 'he is not a danger to the safety of others'... he provides no evidence to substantiate this assertion ..." Faulkner provides the attached declaration regarding the seriousness of the criminal conduct, and concerns related to any hypothetical danger to the public.

I. Seriousness

In response to the repeated assertions that I have been "involved in very serious criminal conduct", I feel that additional perspective is needed, perspective enabled by the subsequent passage of 13 years since said conduct.

If we were to poll 1000 American Citizens at random and ask them to give us their opinion on what constitutes a serious crime, they would of course say murder, kidnapping, and armed robbery. Conspiracy to commit wire/mail fraud would not make the top ten. This is somewhat ironic considering my sentence exceeds that of the average sentence for the "serious" crimes listed above. Although, we can agree that the U.S. Department of Justice certainly views wire fraud as a serious crime, common sense dictates that the American public certainly does not. If I had wiped out a pension fund, maybe we could persuade Joe Public to reconsider the

seriousness of wire fraud. And I can certainly agree there are many other scenarios where the common man would consider wire fraud a serious offense. However, if there is anyone not employed by the U.S. government that thinks corporate debt between telecomm companies rises to the level of "serious" then not only have I not met them, but I have great difficulty imagining such a character. That being said, I personally do understand the seriousness of my criminal conduct. I can also surmise the long-term harm possible if corporate executives were allowed to engage in unethical corporate warfare unchecked. I get it. I also understand that I have one of the longest sentences for wire fraud on record. I have found many cases where pension funds were wiped out and where actual human victims were irreparably harmed, and yet lower sentences were handed down. And yet all of my "victims" were multi-billion-dollar corporations, so it is abundantly clear that what the Department of Justice considers serious, and why.

Regardless of the obvious ethical issues, I recognize that the United States is a nation of laws, and the unspoken agreement is that the citizens will abide by these laws or face the wrath of U.S. law enforcement. I have no illusions about the breadth and power of law enforcement, nor have I ever considered myself beyond the law in any way.

Furthermore, I did not set out to rob larger corporations with my own. My companies were run over, trampled, and bullied for years by larger tech companies.

As goes the analogy of the slowly-boiled frog, we stewed in the misery of abject failure under the heel of the big telcoms so long that my business associates and myself began justifying less and less ethical behavior. I am a software engineer. My education and training evolve around the concepts associated with Business Process Automation via software. I had no formal training in telecom, much less the law. I was relying on guidance from my partners and lawyers, yet we all traveled together down the wrong path together leading to years of pre-trial motions, a lengthy trial, and the destruction of the 22 lives of the codefendants and subsequent damage to their families.

Regardless of the fact that Joe Public would not consider wire fraud serious, it is pretty damn serious to me.

I have spent the last 12 years in prison, and I have endured the darkest moments of the Bureau of Prisons dark history. I have lost my two remaining grandparents, an uncle, and a brother-in-law all who have passed away while I have been incarcerated. I have two nephews I have never met, and my daughter has married and had a child. I am a grandfather now, and I have never met the child or his father. Visitation is of course all but non-existent in the Bureau of Prisons since the beginning of COVID-19. In fact, it is difficult to enumerate all the many ways the BOP has failed to manage the pandemic. I find that the Congressional report on the subject is the tip of the iceberg.

Just in case it was the intent of the Court to sentence me to 360 months of luxurious federal accommodations, it bears mentioning that the BOP has fallen well below third-world standards for health and human safety. We spend our days on perpetual lockdown with no common privileges of any kind. The current conditions in general population are now worse than those of the BOP's intentional punishment status of the past. Recreation is a fleeting and intermittent concept. Education programs have been dramatically reduced, making it very difficult to obtain enrollment, and to get in program hours. BOP Medical Services' full focus is now on COVID, making it next to impossible to obtain even basic medical care. As I age and rack up the obligatory medical problems associated with a sedentary confinement and a poor diet, I live in constant fear that I will eventually reach a co-morbidity scenario that will be fatal for me here, yet easily treatable outside of the BOP.

Today the news is full of articles on the rising violence and corruption within the Bureau of Prisons, which we all see here first-hand. It seems Texarkana is generally considered one of the safer federal prisons, with less corruption than most other facilities. However, any inmate can find illegal drugs here with less effort than that needed to locate hand soap or basic sanitation supplies. Federal prison has been on a steep decline for decades, and now COVID has made even basic operations cost-prohibitive. Even prior to the pandemic, the BOP spent more on wrongful death

and medical malpractice litigation that they did actual medical care. Now, the BOP faces the sharpest budget cuts in years.

I spend every day in a constant struggle to achieve the most basic preservation of my health while knowing that I live in a petri dish of contagion and disease for which I have no control whatsoever. All of us live in fear of the next variant, and the BOP's certain mismanagement of the virus. As my health continues to deteriorate, I watch the BOP pay lip service to CDC guidelines as they desperately try to get back to business-as-usual for the sole benefit of their Unionized staff and their collective paychecks.

So I am perfectly clear; I personally view the criminal conduct and subsequent situation very seriously. I know that on this current path I will likely die in federal prison of some easily treatable condition or via some future COVID variant.

II - Danger to the Public

In response to the statement "Moreover, the undersigned as the sentencing judge is aware of Faulkner's relevant offense conduct and finds that he would pose a danger to the public if granted an early release," I assert the following:

First and foremost, I have never been involved in any form of violent crime, and I have never hurt anyone. My decidedly uneducated understanding of the law,

that meets the criteria for Not a Danger to the Public. I have no idea what "relevant offense conduct" would lead any reasonable party to think otherwise.

One could assert that I engaged in unethical business practices and stretched corporate asset protection schemes to the point that they became wire fraud. That happened. However, at the same time I was a married father of three living in the suburbs of Southlake, Texas. I did not drink, use drugs, or engage in any form of dangerous behavior. I did however attend soccer games, dance recitals, and PTA meetings. I spent my days managing technology companies and writing the code that kept those systems afloat. I am fully aware of the fact that the government prosecutors are famous for casting every defendant in the most sinister light possible, such is the adversarial justice system. However, we all know that the Pre-Sentence Investigation Reports are exactly that; a one-sided narrative often unsupported by documented facts. Again, I have never threatened or harmed another human being in my entire life, not even in the last 12 years I have spent in federal prison which at this point is basically 24/7 bedlam and debauchery. Therefore, I must assume the definition of "dangerous" has been stretched to include a danger to corporations.

However, I pose no danger of any kind to any business. In order to engage in a business arrangement with a large telecom company in which non-payment and/or fraud would be possible, you must first have a telecom company yourself and a bare minimum of hundreds of thousands of dollars in equipment. Today, I am barely able

to make my \$50.00 monthly restitution payments, which leaves me quite incapable of acquiring the necessary infrastructure to engage in any form of telecom fraud. I also have to believe that in the past 13 years since I have been involved in telecom, technology has certainly changed well beyond my rudimentary understanding of the industry. As that is one of the fastest-growing market sectors, it is ludicrous to think any of my previous criminal conduct would pose any danger to a modern telecom company.

It is noteworthy that my NCIC and BOP record clearly indicate no violent crime or danger to the public. It is also obvious that I clearly lack the capacity to engage in any corporate malfeasance. It is more important to note that I have spent the last 12 years in federal prison enduring some of the worst situations imaginable and yet managed to complete virtually every education, vocational, and apprenticeship program available. In a very dangerous environment with rampant drug abuse, violence, and all manner of lawless behavior committed by inmates and staff alike, I have a clean BOP record, and the lowest possible First Step Act and Custody Classification Score. While it's a fact that most inmates spend their time gambling and trying to find ways to get high, I have spent every second of my time trying my best to be productive and to focus on my future. As a tutor with the Business Computer Applications program, I was able to teach many inmates how to use Microsoft Office well enough to produce a resume. At FCI Beaumont where I

once saw blood literally dripping from the ceiling, I furthered my education in advanced mathematics, and went on to pursue an associate degree via Coastline Community College in California.

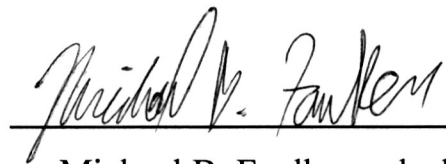
In my time at FCI Texarkana, I have completed the Graphic Design, Business Computer, and HVAC VT programs, and stayed on after completing the programs to assist the instructors as a tutor. I now have a greatly expanded number of career options as my software skills become more and more dated. One could be forgiven for not understanding how difficult it is to commit any meaningful educational endeavors here. Most people can't imagine what it is like to spend 23 hours a day in less than 100 square feet of space shared by four people. With each new phase of COVID and the BOP's response, all the rules and schedules change. But I have persevered, and done everything possible to better myself, in spite of the life-ending sentence and my near-certain fate. I feel that this sustained behavior for over a decade should greatly discount the absurd notion that I am in any way a danger to the public. Be it next month, or in the year 2034, my only focus is to survive this miserable experience and to make it out alive to assist my aging parents, and to try to make up for lost time with my children.

The very notion that somehow 12 years in federal prison has not been life altering enough to permanently and irrevocably alter my worldview and actual personality is absurd. I was broken years ago. Point made. Justice served. I know that the decisions

I made in 2007 led to me losing my family and everything I ever valued. Today as my health slips away and the very real consequence for my actions rears its ugly head, I have never feared the government more, or understood the consequence of breaking the law more than I do now. I can assure this court that I will fully comply with all the conditions of my judgement and commitment and never engage in any criminal behavior ever again.

So here I sit having spent years as a broken man contemplating the existential benefits of life as a hermit with a very real fear of going out in public, and yet I am faced with the rather silly proposition that someone thinks I'm a danger to said public. That is simply not the case

Executed this 27th day of December 2021 at Texarkana, Texas.


Michael B. Faulkner, declarant